

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ARBEN CORPORATION,

Plaintiff,

- against -

03 CIV. 2441 (GAY)

CANATAL INDUSTRIES INC.,

**MEMORANDUM DECISION
AND ORDER**

Defendant,

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CANATAL INDUSTRIES INC.,

Third-Party Plaintiff,

- against -

UNITED STATES FIDELITY
AND GUARANTY COMPANY,

Third-Party Defendant.

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The parties have consented to try this matter before me pursuant to 28 U.S.C. §636(c). Plaintiff Arben Corporation (“Arben”) brought this action against defendant Canatal Industries, Inc. (“Canatal”), claiming breach of contract, breach of express warranty, breach of implied warranty and exaggerated mechanic’s lien. Canatal then filed a counterclaim against Arben for breach of contract and impleaded United States Fidelity and Guaranty Company (“USF&G”) as a third party defendant.

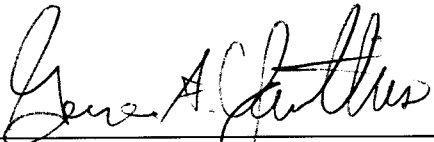
Presently before this Court are Arben’s and USFG’s motion for summary judgment; and Canatal’s motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure (“FRCP”). Arben and USFG also seek dismissal of Canatal’s counterclaim. A review of the entire record indicates numerous triable factual

issues concerning the performance of the contract; and the claims brought by the parties. Accordingly, all motions are **DENIED**.

A telephone conference will be held on April 7, 2006 at 9:30am. Plaintiff shall initiate the call.

Dated: March 29, 2006
White Plains, New York

SO ORDERED:



GEORGE A. YANTHIS, U.S.M.J.

Copies of this Memorandum Decision and Order have been sent to:

Arthur Semetis, Esq.

David Canfield, Esq.